United Nations A/HRC/25/NGO/79

General Assembly

Distr.: General
26 February 2014

English only

Human Rights Council
Twenty-fifth session
Agenda item 2
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-11308
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The human rights situation in Colombia

Amnesty International reiterates its support for the work of the UN Office of the High Commissioner for Human Rights in Colombia to improve respect for human rights in the country, including through insistence on the full implementation of repeated UN recommendations. The Office's monitoring role has been particularly important in alleviating human suffering in the long-running armed conflict.

The Office's role in providing international scrutiny will become even more critical given the uncertain human rights consequences of any peace agreement, or the failure to reach an agreement, between the government and the Revolutionary Armed Forces of Colombia (FARC). Amnesty International therefore encourages the government to renew the Office's integral mandate for at least a three-year period.

This statement presents an overview of Amnesty International's concerns in Colombia and recommendations to the Human Rights Council.

The ongoing peace negotiations in Havana, Cuba, offer the best chance in over a decade to put an end to hostilities, and with it the abuses and violations of human rights and international humanitarian law (IHL) that have marked the 50-year-old conflict.

However, the government's promotion of legislation that will only serve to boost impunity and the failure of the warring parties to end violations and abuses against civilians, raises question marks about their commitment to human rights and calls into question the long-term viability of any peace agreement.

Communities at risk

Indigenous, Afro-descendent and peasant farmer communities and human rights defenders still bear the brunt of the conflict. All the warring parties – the security forces, either alone or in collusion with paramilitary groups, and the guerrilla – are responsible for abuses and violations of human rights and IHL, including killings of protected persons, enforced disappearances or abductions, torture, forced displacement and crimes of sexual violence.

More than 5 million people have been forcibly displaced during the course of the conflict. According to the latest figures available from the NGO Codhes, more than 250,000 civilians were forced to flee their homes in 2012.

Indigenous communities continue to be hard hit. According to the National Indigenous Organization of Colombia (ONIC), 23 indigenous persons were killed in the first half of 2013.

There has also been concern about the authorities' failure to stem the growing tide of violence against Afro-descendent communities in Buenaventura, Valle del Cauca Department.

The security forces

There have been continued reports of extrajudicial executions. The numbers are far lower than the thousands recorded during Álvaro Uribe's presidency. However, scant progress has been made in investigating these killings. Some cases are still being transferred to the military justice system, which has an appalling record in holding to account members of the security forces implicated in human rights violations.

Concerns were raised about excessive and disproportionate use of force by the security forces during protests in 2013, including during Indigenous protests in October, the national peasant farmer strike in August and the peasant farmer demonstrations in Catatumbo in June. Senior government and state officials alleged that guerrilla groups had orchestrated the demonstrations, placing protestors at risk of revenge attacks by paramilitaries.

Paramilitaries

Paramilitaries continue to operate despite their supposed demobilization in a government-sponsored process that began in 2005. The government offered reduced prison sentences to thousands of paramilitaries under investigation for human rights violations who laid down their weapons. However, only 22 paramilitaries who surrendered their arms under the 2005 Justice and Peace Law have been convicted of human rights violations. Hundreds of paramilitaries on remand could be freed from prison later this year without having gone to trial, after having spent the maximum eight years in prison stipulated by the law.

There are no effective measures in place to ensure that those released do not again incorporate themselves into paramilitary structures, which continue to commit human rights violations against vulnerable groups and communities.

Guerrilla groups

Guerrilla groups are responsible for human rights abuses and violations of IHL, including killings of protected persons, hostage-taking, use of landmines, recruitment of children, and forced displacement. The FARC are also responsible for indiscriminate attacks, some using explosive devices in urban areas, which injured and killed civilians.

Human rights defenders

According to the NGO Somos Defensores, some 70 human rights defenders, including community, indigenous and afro-descendant leaders, were killed in 2013. The National Trade Union School (ENS) reported that 27 members of trade unions were killed. Land activists and those working on impunity have been particularly vulnerable to attacks.

These attacks, as well as the misuse of the legal system to bring sometimes bogus charges against human rights defenders and the theft of sensitive information from NGO offices, continue to undermine the work of human rights organizations.

Although the state's protection programmes provide security to thousands of individuals at risk, including human rights defenders, these programmes continue to suffer from serious weaknesses. Their effectiveness will continue to be limited as long as the perpetrators of human rights violations and abuses remain confident that they will not be brought to justice.

Land restitution

The 2011 Victims and Land Restitution Law aims to provide reparation to some victims of the conflict and return to their owners some of the millions of hectares of land misappropriated from them, often violently, by the parties to the conflict.

This law could make a positive impact on victims' lives. However, it is hampered by serious shortcomings, notably the authorities' failure to guarantee the safety of land claimants and to ensure that any return is economically sustainable. Hundreds of land claimants and their representatives have been threatened and dozens killed since the law came into effect.

According to the state's National Protection Unit (UNP), around 1,000 land claimants and leaders have requested protection, although only half of these requests have been granted. According to the Office of the Attorney General more than 30 land claimants and leaders were killed between 2010 and mid-2013, although the true figure is likely to be higher.

Impunity

Recent legislation risks further undermining the little progress made by ordinary civilian courts in ending impunity in cases of human rights violations and abuses.

In June 2013, Congress approved a reform of the military justice system, which would have further shielded members of the security forces allegedly implicated in human rights violations. Although the Constitutional Court threw out the reform on procedural grounds in October 2013, the government is likely to reintroduce it later this year.

The Legal Framework for Peace, which came into force in 2012, gives the Congress the authority to limit prosecutions only to those "most responsible" for human rights violations and abuses and to suspend prison sentences for all paramilitary, guerrilla and security force members convicted of such crimes. In August 2013, the Constitutional Court upheld the constitutionality of the law but ruled that the sentences of those "most responsible" could not be completely suspended if they were responsible for crimes against humanity, genocide or war crimes carried out in a systematic manner. However, there is no clear criteria as to who are the "most responsible" nor have many of the "most responsible" been identified. The legislation will, as such, undermine the right of victims to truth, justice and reparation.

Violence against women

All the parties to the conflict continue to be responsible for crimes of gender-based violence. Although laws, resolutions, decrees and protocols exist to combat sexual violence these are rarely effectively implemented. In 2008, the Constitutional Court issued Judicial Ruling 092 of 2008 (Auto 092). It called on the state to combat conflict-related sexual violence and the impunity that marks such crimes. However, reports published in 2013 by the Constitutional Court and the NGO Follow-Up Group on Auto 092 of 2008 (Grupo de Seguimiento al Auto 092 de 2008) concluded that implementation of Auto 092 remained poor. Most of those suspected of criminal responsibility have yet to be identified, let alone investigated.

Women human rights defenders, including those working on sexual violence and impunity, continue to be threatened and killed.

Role of the international community

The peace process offers the international community an important opportunity to emphasise to the government that the right of victims to truth, justice and reparation is an essential and non-negotiable prerequisite for an effective and long-lasting peace in Colombia.

Amnesty International therefore urges the members and observers of the Human Rights Council to:

- acknowledge that the human rights situation in the country remains critical, especially for Indigenous Peoples, Afro-descendent and peasant farmer communities, land claimants, and human rights defenders, community leaders and trade unionists;
- call on the Colombian government and guerrilla groups to take verifiable measures to put an immediate end to abuses and violations of human rights and IHL;
- insist on the full and immediate compliance by all parties of the recommendations of the UN High Commissioner for Human Rights, and of other UN bodies, and the need to continue with the presence and work of the Office of the UNHCHR in Colombia;
- urge the Colombian authorities to desist from measures, such as the reform of the military justice system, which will boost already high levels of impunity; and
- urge the government and the FARC to acknowledge that respect for human rights and an end to impunity must be a central component of the peace talks.